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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

FIONA HARVEY,

Plaintiff,

v.

NETFLIX, INC. and NETFLIX
WORLDWIDE ENTERTAINMENT, LLC,

Defendants.

Case No. 2:24-cv-04744-RGK-AJR

**PLAINTIFF'S APPLICATION
FOR LEAVE TO FILE
DOCUMENTS IN OPPOSITION
TO DEFENDANTS' MOTION
TO STRIKE UNDER SEAL**

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that, pursuant to Local Rule 79-5.2.2(a), Plaintiff
3 Fiona Harvey hereby applies for leave to file under seal Exhibits 1-23 to the
4 Declaration of Fiona Harvey submitted in opposition to Netflix’s Motion to Strike.

5 The common law right of access to judicial proceedings “is not absolute and
6 can be overridden given sufficiently compelling reasons for doing so.” *Foltz v. State*
7 *Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003). Documents may be
8 sealed when the compelling reasons for doing so outweigh the public’s right of
9 access. *EEOC v. Erection Co.*, 900 F.2d 168, 170 (9th Cir. 1990). “The Ninth Circuit
10 has held that compelling reasons exist to keep personal information confidential to
11 protect an individual’s privacy interest and to prevent exposure to harm or identity
12 theft.” *Activision Publ’g, Inc. v. EngineOwning UG*, 2023 WL 2347134, at *1 (C.D.
13 Cal. Feb. 27, 2023) (citing *Foltz*, 331 F.3d at 1134; *Kamakana v. City & Cnty. of*
14 *Honolulu*, 447 F.3d 1172, 1179 (9th Cir. 2006)); *see also Stiner v. Brookdale Senior*
15 *Living, Inc.*, 2022 WL 1180216, at *2 (N.D. Cal. Mar. 30, 2022) (courts “routinely
16 find compelling reasons to seal personally-identifying information that has minimal
17 relevance to the underlying causes of action”). In addition, “‘compelling reasons’
18 sufficient to outweigh the public’s interest in disclosure and justify sealing court
19 records exist when such ‘court files might have become a vehicle for improper
20 purposes,’ such as the use of records to gratify private spite, promote public scandal,
21 circulate libelous statements, or release trade secrets.” *Kamakana*, 447 F.3d at 1179
22 (quoting *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598 (1978)).

23 Plaintiff respectfully requests that Exhibits 1-23 to the Declaration of Fiona
24 Harvey in Opposition to Netflix’s Motion to Strike (the “Harvey Exhibits”) be filed
25 under seal because (i) the Harvey Exhibits contain abusive and threatening
26 communications that could be used to cause further harm to Plaintiff if publicly
27

1 exposed, and (ii) the Harvey Exhibits contain personally identifiable and/or private
2 information of third parties which, if made public, and in light of the high-profile
3 nature of this dispute, “might [] become a vehicle for improper purposes,” including
4 “to gratify private spite,” “promote public scandal,” and/or “circulate libelous
5 statements.” See Declaration of Brian Levenson in Support of Plaintiff’s Application
6 for Leave to File Documents in Opposition to Defendants’ Motion to Strike.

7 The Harvey Exhibits comprise a series of online messages received by
8 Plaintiff in which she has been insulted, abused, threatened with rape and encouraged
9 to kill herself. Avoiding the harm that could come from further public airing of these
10 communications, and potential retaliation against those who sent the messages, is a
11 compelling reason to seal these documents that outweighs the public’s interest in
12 disclosure. *U.S. Tobacco Coop. Inc. v Big S. Wholesale of Virginia, LLC*, 5:13-CV-
13 527-F, 2016 WL 3573929, at *1 (E.D.N.C. 2016)(sealing documents that contained
14 “information that could subject certain individuals to physical harm and/or
15 harassment”); *Dish Network LLC v. Sonicview USA, Inc.*, No. 09-CV-1553 L (NLS),
16 2009 WL 2224596, at *7 (S.D. Cal. 2009) (finding that protecting the identities of
17 individuals who had served as confidential informants, and thereby protecting them
18 from being subjected to threats of physical harm, outweighed the presumption of
19 access to court records); *Anonymous v C.I.R.*, 127 TC 89, 2006 WL 2572907 (Tax
20 Ct. 2006).

21 Plaintiff’s interest in this information not becoming “a vehicle for improper
22 purposes,” *Kamakana*, 447 F.3d at 1179, which is especially relevant given that this
23 lawsuit was brought because of the severe damage caused by Defendants’
24 defamatory stalking allegations which have already led to a campaign of personal
25 harassment and abuse of Plaintiff. Harvey Declaration, ¶¶ 17-19. As filed with this
26 Court, the Harvey Exhibits contain limited redactions necessary to protect the

1 privacy of Plaintiff and other third parties, and to prevent this information from
2 becoming a vehicle for improper purposes.

3 Plaintiff requests that the Court enter the attached Proposed Order Granting
4 Plaintiff's Application for Leave to File Documents in Opposition to Netflix's
5 Motion to Strike Under Seal.

6
7 DATED: August 26, 2024

Respectfully submitted,

8 *s/ Brian S. Levenson*

9 By: _____
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